

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

BRADLEY KEITH SLEIGHTER

Plaintiff,

Case No. 1:12-cv-001008

v

Hon. Gordon J. Quist
U.S. District Judge

KENT COUNTY JAIL
ADMINISTRATOR, (KENT COUNTY
CORRECTIONAL FACILITY),
Defendant.

Hon. Ellen S. Carmody
U.S. Magistrate Judge

Bradley Keith Sleighter (**In Pro Per**)
82 50th S.W., Apt. 323
Wyoming, MI 49548

Paul J. Greenwald (P25368)
Peter A. Smit (P27886)
VARNUM LLP
Attorneys for Defendant Kent County Jail
Administrator (Kent County Correctional Facility)
Bridgewater Place
333 Bridge Street NW
P.O. Box 352
Grand Rapids, MI 49401-0352
(616) 336-6000

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
TO FILE SECOND AMENDED COMPLAINT**

The Plaintiff's Complaint (Doc. #1) was filed September 20, 2012. Service was waived December 20, 2012 and this Defendant filed an answer on January 18, 2013 (Doc. #13). The Plaintiff filed a Motion for Leave to file a First Amended Complaint on April 22, 2013 (Doc. #27), which was denied on May 22, 2013 (Doc. #29). Discovery closed July 19, 203, pursuant to the Court's order of April 18, 2013 (Doc. #26), and this Defendant filed a Motion for Summary Judgment on August 15, 2013 (Doc. #47), and Brief in Support (Doc. #48). That motion is

pending before this Court. The Plaintiff replied to the Motion for Summary Judgment on August 30, 2012 (Docs. #54 and #55). That motion is ready for the Court to consider and decide.

In the meantime, the Plaintiff filed a Motion to "Supplement" Complaint on July 29, 2013 (Doc. #41) which, for all practical purposes, appears to be a motion to file another First Amended Complaint. The theory of the case remains the same. the new matter would only add the same claim during a new second period of incarceration following an additional conviction of a misdemeanor offense.

This Defendant filed a Response (Doc. #43) and Brief in Support (Doc. #44) on August 7, 2013, in opposition. The theory of the original complaint and the proposed supplement are the same. if the Court grants this Defendant's Motion for Summary Judgment (Docs. #47 and #48) it would be futile to allow the proposed supplemental complaint as the theory of recovery is the same and it would be dismissed too. This Defendant asked the Court to address the Motion for Summary Judgment first. If the motion is granted the motion to supplement would be without merit too. If the Court denied Summary Judgment it would then be appropriate to address motions for amended complaints.

The Plaintiff has now filed yet another motion. He has now filed a Motion for Leave to file a Second Amended Complaint on August 30, 2013 (Doc. #55), which seems to consolidate a motion and brief into a single document. It again states theory of recovery and seeks the same remedy as the Complaint (Doc. #1) the proposed First Amended Complaint (Doc. #27) which the Court did not allow him to file (Doc. #29), and the proposed "Supplement" of the Complaint (Doc. #41). It too would be dismissed if the Court grants the pending Motion for Summary Judgment (Doc. #47).

This defendant is asking this Court to address the merits of the pending Motion for Summary Judgment (Doc. #47). If the Court rules favorably and grants that motion, all of the

proposals to amend or supplement the Complaint which the Plaintiff has filed would be moot. All of the proposed amendments and the original complaint revolve around one single issue. The Plaintiff is a long term Methadone user. He wants to receive Methadone from Medical Services at the Kent County Correctional Facility. The facility policy does not allow opiate drugs to be used in the Facility. Medical staff clearly states they have alternative drugs and procedures sufficient to treat inmates, and if treatment is needed they can't provide, an inmate will be transferred to a hospital or medical facility where needed treatment could be provided. (Affidavit of Nasim Yacob MD, Doc. #48-2.) This is all the subject of and more fully discussed in this Defendant's Motion for Summary Judgment (Doc. #47) and the Brief in Support of that Motion (Doc. #48). This resolution of that issue alone will likely go a long way towards resolving this lawsuit that has been pending for over a year.

This Defendant asks this Court to deny the Plaintiff's Motion to file a Second Amended Complaint or delay its decision until it has ruled upon the pending Motion for Summary Judgment (Doc. #47).

Respectfully submitted,

VARNUM LLP Attorneys for Attorneys
for Defendant Kent County Jail Administrator (Kent
County Correctional Facility)

Dated: September 11, 2013

By: /s/ Paul J. Greenwald
Paul J. Greenwald (P25368)
Business Address and Telephone:
Bridgewater Place, P.O. Box 352
Grand Rapids, Michigan 49501-0352
(616) 336-6000